

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of

Metropolitan Dade County,
Miami-Dade Water and Sewer
Authority

NPDES Permit No. FL0024805

Permittee

RULING ON MOTION

The Permittee has moved to strike two witnesses and exclude some of the evidence indicated in the Region's prehearing exchange. Miami-Dade objects to the Region's presentation of any evidence that its Central District Wastewater Treatment Plant is not entitled to a reduced percent removal limit for biochemical oxygen demand ("BOD") and total suspended solids ("TSS") under 40 CFR §133.103 (d) .

The motion is denied at this time as premature. I do not intend to rule on motions to exclude evidence until at least the prefiled narrative testimony is filed. Even then, it is preferable to leave such motions for the hearing itself.

However a few general guidelines are in order relative to the problem raised. With regard to the percent removal limits, the only issue is whether they should be *further* reduced. There is no issue or possible outcome that could result in raising or eliminating the Permittee's adjusted percent removal limits of 78/79% set forth in the NPDES permit for the Central District plant. Therefore, testimony, evidence, or argument specifically directed toward that proposition will not be given any weight and will be precluded to the extent feasible.

This does not mean, however, that the Region cannot address the inflow and infiltration situation in the district and the nature of the plant's influent. Those are of course proper factors for consideration in determining an

appropriate adjusted percent removal limit. The witnesses should address the facts, which will in turn speak for themselves and lead to the appropriate conclusions. It would be premature and speculative to grant the Permittee's Motion or address this issue any further at this time.

Andrew S. Pearlstein
Administrative Law Judge

Dated: November 7, 1996
Washington, D.C.

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CERTIFICATE OF SERVICE

I certify that the foregoing **Ruling On Motion**, dated November 7, 1996, was sent this day in the following manner to the addressees listed below:

Original by Regular Mail to:

Julia P. Mooney
Regional Hearing Clerk
U.S. EPA
Atlanta Federal Center
100 Alabama Street. SW, 14th Floor
Atlanta, GA 30303

Copy by Regular Mail to:

Attorney for Complainant:

John F. Callahan, Esquire
Assistant Regional Counsel
U.S. EPA
Atlanta Federal Center
100 Alabama Street, SW, 14th Floor
Atlanta, GA 30303

Attorney for Respondent:

Carl A. Sinderbrand, Esquire
Wickwire & Gavin, P.C.
National Guardian Life Building
Suite 300
2 East Gilman Street
P.O. Box 1683
Madison, WI 53701-1683

Maria Whiting
Legal Staff Assistant

Dated: November 7, 1996